

**From:** [Luda Voskov](#)  
**To:** [Garyg\\_Miller/R6/USEPA/US@EPA](#)  
**Subject:** Gulfco Restrictive Covenant  
**Date:** 07/20/2012 03:48 PM

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Gary,

Here are the initial TCEQ comments on the RCs for Gulfco:

- 1.) It might be best to start with a TCEQ Restrictive Covenant Form (TCEQ is happy to draft and discuss with EPA the best method for accomplishing). Some of the information that is contained in the TCEQ form that is currently missing is the list of COCs, explanation for the RC in general, the legal description of the property versus the affected property, and language in the present RCs that incorporates the exhibits by reference.
- 2.) Is the groundwater restriction meant to include the entire property? Do we have a map showing the contaminated groundwater area to confirm that each lot is wholly within the affected property area?
- 3.) Under the construction restriction, same comment as above on whether the entire property requires this type of restriction and do we have a technical justification for restricting all of the property. Also, in the first sentence, it says construction is "not advisable" and the TCEQ concerned that this is not legally enforceable. If we want to restrict such activities on the property, stronger, more enforceable language must be used (see TCEQ RC shells).
- 4.) Since this was filed in 2009, are there are any additional restrictions needed now? Are there signs at the property, fencing, wells, grass other elements at the property that we would like to protect? All of those elements would need to be covered in an RC, each element shown for each lot on an attachment.
- 5.) TCEQ is not listed as a third party beneficiary and we think this would need to be included in any final RCs that are filed so that TCEQ could also enforce the RC.
- 6.) Can we confirm that each lot contains a metes and bound? This is required for TCEQ, as per TAC; we need metes and bounds property descriptions filed in the property records.
- 7.) Why are there two parcels/lots listed for the first two RCs? Are these separate legal properties/lots? If they are legally separate properties, then a separate RC for each separate property must be filed, each with its own metes and bounds and map showing just that individual property. In the first two RCs, there are two property descriptions and the map shows two separate lots; this is confusing and would not appropriate to file this way into the property records.
- 8.) The maps attached to these three RCs are all illegible. We need to make sure all maps included with RCs are very clear so that current and future owners of the property know exactly what they cannot do on their property. The map should show just each legal description lot individually, show on the map where the elements requiring restriction are located (e.g. wells, fences, etc.) . We may need to discuss asking the RP to survey each individual lot and show each element requiring a restriction as well as get metes and bounds descriptions before the RCs are final.

It would be best if the TCEQ can discuss these questions/comments on a conference call, including the technical and legal TCEQ and EPA staff. Can we perhaps plan to discuss on August 20, 21 or

22?

I will be on vacation from July 23 to August 11.

Thanks!

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